



**Aged Care
Association**
NEW ZEALAND

Aged Care Association submission to the Ministry for Regulation on the proposed Regulatory Standards Bill

January 2025

Contents

About the Aged Care Association	2
Context	3
Key Points of Objection to the Proposed Bill	3

About the Aged Care Association

This submission is from the Aged Care Association (ACA), the peak body for the aged residential care (ARC) sector in New Zealand.

New Zealand has over 670 aged residential care facilities, with more than 40,000 beds and 35,000 residents. In comparison, Te Whatu Ora oversees 10,748 public hospital beds.

Our members provide rest home, hospital, dementia, psychogeriatric, respite, and palliative care and care for around 700 younger people with disabilities.

Sixty six percent of beds are run by religious institutions, charitable trusts, family-owned, not-for-profits, and privately owned facilities. Most of the remaining beds are operated by listed companies (34 percent), with less than 1 percent provided by Te Whatu Ora.

Residents may be

- very frail and clinically unstable,
- well but disabled and have very high care needs,
- cognitively impaired or with mental health issues, with some requiring a secure environment,
- receiving end of life care.

Funding for aged residential care is a mix of means-tested user-pays and government subsidy.

Aged residential care providers are contracted by Te Whatu Ora to provide care services at a rate that is set annually.

Context

1. We support the creation of responsible and reasonable regulation that ensures an appropriate standard of care and service that must be provided to older New Zealanders however, but the Association opposes the restrictive parameters set in the proposed Bill. We note that the principles and parameters suggested have already been discussed, reviewed and dismissed by the New Zealand Parliament on a number of occasions. We have been unable to identify any major shift in New Zealand society or democratic process that suggests any need or benefits from such a Bill at this time.
2. Please note that this submission is an overview of only our key points of objection. The time frame for consultation, extending over the summer break period, and its overlap with other Bills of significance, has limited our capacity to make a more detailed submission.

Key Points of Objection to the Proposed Bill

3. The Association strongly believes that the principle of equity needs to underpin all existing and future legislations, including any regulatory oversight arrangements. The principle of equity is currently missing from the Legislative Design Principles, and we consider it to be an omission that could have far-reaching implications in how New Zealanders access their rights and benefits as promised under various legislations.
4. The Association objects to the proposed Bill document and the Cabinet Paper explicitly stating that all legislations “should be expected to produce benefits that exceed the costs of the legislation to the public or persons”. The Association believes that there would be a notable risk in limiting the guidance principles for legislative design in economic terms and removing any consideration of public good. There is a need for legislation/regulation that over time produce net positive social and economic outcomes and we hold concerns that a narrow cost benefit focus with the capacity for both domestic and international corporations to pursue costs from any perceived benefit loss will have a chilling on government action.
5. An example could be – perhaps a future government sees the need to introduce a separate Government funding line, accessible via a grant scheme, with which to refurbish and grow New Zealand’s ageing ARC infrastructure. However, to ensure public good and those without the ability to meet the asset and income thresholds the scheme would be targeted to providers who are not-for-profit, charitable or specifically provide to lower socio-economic New Zealanders. The long-term benefits of housing and documented reduction of hospital acute services can be realistically argued to outweigh the upfront costs in immediate terms. Would the suggested principles articulated in this proposed Bill allow a non-eligible organisation to seek compensation for perceived discrimination from the Government? Could the government use as its defence the expectations of Government under Article 25 of the Universal Declaration of Human Rights on the grounds that the above would mean a better quality of life and care for a proportion of our country’s older population.
6. The Association expresses its concerns around the process already agreed to by the Coalition Government. We refer to the Coalition Agreement between the ACT and National Parties, which states “Legislate to improve the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency, by **passing** the Regulatory Standards Act as soon as practicable.” New Zealand has a highly respected

democratic process in our Select Committees. While the basis of our parliamentary system is that of the Westminster system the process by which our citizens are able to comment on legislation post its first reading in parliament is a core pillar of our participatory democracy. We are conscious that the use of the word 'passing' as opposed to 'introducing' indicates an undemocratic process that does not make room for any public opposition to the Bill. To negotiate the passing of legislation as a part of the formation of government sets a dangerous precedent and erodes public trust in our democratic process. This draft legislation has already been dismissed on at least two occasions via a full democratic process, it does not embolden trust or participation in democracy when to ensure, through private negotiation, that the wishes of the New Zealand public will be ignored.

7. It is our view that this Bill should not be progressed further and the that opposition articulated on previous occasions remain and that the risk of harm to the New Zealand social fabric, public and economy articulated in previous and current submissions is too great for it to be considered further.